calculations than the Commission's rebuttable presumption if state law requires a minimum ground clearance at the pole of more than 18 feet.

B. The Second Factor -- Cost of a Bare Pole

For electric utilities, the Commission has previously applied the following formula for the net cost of a bare pole:

$$\text{Net Cost of a Bare Pole} = \frac{.85 \text{ X Net Pole Investment}}{\text{Number of Poles}}$$

NPRM ¶10. The Commission has requested comments on whether poles of 30 feet or less should be included in the calculation of pole costs; whether that calculation should be based on net or gross costs; and what accounts should be included in the calculation. NPRM ¶¶18, 20, 29. These issues are addressed below.

1. Should Poles of 30 feet or less Be Included or Excluded

The Commission seeks comment on a recommendation in the white paper filed by several electrical utilities to exclude poles of 30 feet or less both from the pole investment costs in the numerator and the number of poles in the denominator by the above equation. Ohio Edison does not maintain records which would enable it to segregate its pole investment costs by pole height. Therefore, Ohio Edison could not segregate and exclude its pole investment costs for poles of 30 feet or less. However, Ohio Edison has no objection to the Commission promulgating rules that would allow utilities that can segregate or otherwise identify costs by pole height the option of excluding poles of 30 feet or less from their calculation as net bare pole costs.

2. Gross Book Versus Net Book Costs

In the NPRM, the Commission seeks comment on how to resolve the problem of negative book value when accumulated depreciation balances (including the cost of removal or negative net salvage value) exceeds gross pole investment. The Commission proposes to remove the negative net salvage value, from accumulated depreciation, but would make this adjustment only after the net asset balance for poles has become negative. NPRM ¶¶ 21-25. Alternatively, the Commission seeks comment on calculating pole attachment rates using "gross book costs instead of net book costs." NPRM ¶ 29.

Ohio Edison believes that the Commission should utilize gross book costs for calculating pole attachment rates. Such an approach would avoid entirely the potential problem of unrealistically low or negative net asset balance for poles as well as simplify the rate computation. Ohio Edison supports the gross book methodology proposed by EEI/UTC, which would result in a levelized (fixed) charge rate for capital pole investment. Such an approach has an advantage over a net cost basis in that it results in rates that would remain relatively constant over time. Also, using a gross cost rate methodology is overall more straightforward, and particularly is more straightforward than trying to determine when and how to back out negative net salvage value from the depreciated pole cost. Using the gross value would avoid inequities resulting from the use of the proposed blend of net and gross values.

3. Accounts To Be Used In Calculating Pole Investment.

Under the Commission's current rate formula, pole investment cost is calculated based solely on FERC account 364 ("Poles, tower and fixtures").[8/] FERC account 364 includes "the cost installed of poles, towers, and appurtenant fixtures used for supporting overhead distribution conductors and service wires." 18 C.F.R. Pt. 101, Acct. 364. There are, however, other FERC accounts that contain pole related investment costs that should be included in the numerator component of the calculation of the cost of a bare pole. These include the following:

FERC Account 365 ("Overhead conductors and devices"): This account includes the costs of lightning arresters and ground installations. This equipment serves to protect the pole and its attachments and therefore provides a direct benefit to other entities attaching lines and equipment to the pole. Lightning arresters and ground installations are analogous to guys and anchors, which the Commission previously held "are required to stabilize the pole plant and are therefore pole-related" costs properly included in Section 224(d) rates.[9/] Lightning arresters installed by an electric utility provide protection from voltage surges to both electric supply and communication cables attached to the pole. Further, cable television and telecommunication companies that make attachments to a utility's poles directly attach the grounding system for their equipment to the electric utility's multi-grounded neutral system for the pole. Additionally, this practice of attaching to the multi-grounded

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[8/] See, Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles, Report and Order, 2 FCC Rcd 4387, 4402 (1987)

[9/] Id. at 4390.

neutral system provides protection for the equipment of the telecommunications company. Accordingly, a utility's cost for installing lightning arresters and grounding installations should be included in computing pole costs.[10/]

FERC Account 365 also includes other pole-related costs, in particular initial tree clearing and related permit costs, that should be included in calculating Section 224(d) rates. Initial tree clearing and related costs are plainly part of the capital investment cost for installing the pole and therefore properly included in Section 224(d) rates.

Accordingly, an appropriate percentage of FERC Account 365 attributable to lightning arresters, grounding installation and initial tree clearing and related costs should be included in the numerator component of the calculation of the cost of a bare pole. Ohio Edison believes that 20% of Account 365 should be included as part of the capital cost of the pole. Ohio Edison's expenditures for tree trimming is 8.5% of its distribution pole plant costs and its expenditures for grounds is approximately 12.5% of distribution pole plant costs. Therefore, Ohio Edison believes that a 20% allocation of this account is reasonable.

[10/] In the NPRM, the Commission states its agreement that the cost for lightning arresters and grounding equipment installed to protect poles should be included in the calculation of the net cost of a bare pole. NPRM ¶ 18. But, the Commission goes on to claim that such costs are already part of the calculation. NPRM ¶ 18 and note 55. That is, however, incorrect. FERC Account 365 ("Overhead conductors and devices") referred to by the Commission in note 55 of the NPRM is not included in the formula for net cost allocation as set out in the Commission's latest rulemaking. See 2 FCC Rcd at 4402. The Commission's formula for net bare pole cost set forth there utilizes only FERC Account 364. Id.

FERC Accounts 367 ("Underground conductors and devices"), 368 ("Line transformers") and 369 ("Services"): These accounts contain costs for equipment that are part of the overall grounding protection for electric poles provided by the utility. Therefore some part of these accounts should be included in the capital cost of the pole. Account 367 includes cutouts, arresters, fuses and reclosers. Account 368 includes transformer arresters and fuses, while Account 369 includes grounding connections.

The Commission in the NPRM has stated its preliminary view that the lightning protectors and grounding installations in Account 368 serve to protect electric transformers, not poles, and therefore should not be included in calculating the net costs of a pole. NPRM ¶ 18 and footnote 55. However, this equipment is connected with and part of the multi-grounded neutral system installed by the utility which serves to protect the pole. Therefore, it is appropriate to include these costs in computing pole costs.

Ohio Edison believes that 5% of the costs in Accounts 367, 368 and 369 should be included in calculations the net cost of a pole. Ohio Edison no longer tracks these costs on a yearly basis but estimates that 5% of these accounts would conservatively cover the cost of these protective devices.

FERC Account 360 ("Land and land rights"): This account includes "the cost of land and land rights used in connection with distribution operations." The cost of the land or right-of-way for distribution poles if paid by the utility should be included in the capital cost for the poles. None of these costs in this account, however, are included in Ohio Edison's capital pole costs. Although this

practice may vary by utility, Ohio Edison does not provide right-of-way for pole attachments, these are obtained by the attaching entity.

FERC Account 397 ("Communication equipment"): This account includes the cost of installed communications equipment for "general use in connection with utility operations." Such equipment plays a major role in maintaining pole distribution lines. For example, such equipment is used to communicate to work crews the location of down or damaged poles so that repairs can be quickly made. As such, this equipment clearly benefits cable television and telecommunication companies with pole attachments and some portion of the capital cost of this equipment should be included in calculating pole costs. Ohio Edison believes that 10% of the costs in this account should be allocated to pole costs. It is Ohio Edison's experience that expenditures in this category represent 10% of Ohio Edison's total distribution pole cost.

Ohio Edison believes that the allocable portion of the above-mentioned FERC accounts should be included in computing pole-related investment costs. Further, as a general matter, Ohio Edison believes that the Commission's rate methodology should be flexible enough to allow utilities to include costs in the computation of pole costs based on appropriate cost studies or other appropriate analytical justification. Such an approach would allow individual utilities to include significant costs that may be unique to them but are not neatly captured in the standard FERC accounts.

C. Carry Charge Rate.

The Commission's total carrying charge rate is comprised of the sum of individual components for administrative expenses, maintenance expenses, depreciation expenses, taxes and return on invested capital. In the NPRM, the Commission requests comments on maintenance expenses and return on invested capital, to which Ohio Edison responds. In addition, Ohio Edison believes that an additional component for general operating expenses should be added to the carrying charge rate.

1. Maintenance Expenses Attributable To Poles

Currently the sole expense category picked up by the Commission's formula for calculating the maintenance expense component of the carry charge rate is FERC Account 593 ("Maintenance of overhead lines (Major only)"). In the NPRM, the Commission requests comments on whether a portion of FERC Account 590 ("Maintenance supervision and engineering (Major only)") should also be included in computing the maintenance expense component. NPRM ¶ 35.

Ohio Edison agrees that a significant portion of the expenses in Account 590 -- which captures the cost of labor and expenses incurred in the general supervision and direction of maintenance of the distribution system -- should be included in this computation. Distribution poles constitute a major cost component of its distribution system and therefore Ohio Edison believes 22% of this account should be allocable to pole maintenance. A review of Ohio Edison's overhead charges reveal that approximately 22% of its total costs in this area represents costs related to supervision of its distribution system.

Furthermore, Ohio Edison believes that a significant percentage of Account 594.1 ("Maintenance of lines (Nonmajor only)") should also be included in the Commission's formula. This account includes the cost of "labor, materials used and expenses incurred in the maintenance of distribution line facilities," including electric poles and related equipment. Items identified in the Account include, as an example, "readjusting and changing position guys or braces" and "realigning and straightening poles," which directly benefit the pole and the various attachments to the pole. Ohio Edison believes that 20% of this expense is attributable to pole maintenance and should be included in computing the maintenance component of the carrying charge rates. This maintenance work includes work for protective measures such as fireproofing and repairs to ducts, sewers, drains, etc. that would benefit conduit users.

Finally, Ohio Edison believes that a small percentage, or approximately 5%, of FERC Account 595 ("Maintenance of line transformers") should be included in computing the maintenance component. This allocation is for the maintenance of the grounding equipment included in FERC Account 368 that Ohio Edison, as stated above, believes should be included in calculating pole-related investment costs.

Here again, Ohio Edison strongly suggests, as stated above, that the Commission's rate methodology should allow utilities the flexibility to identify and include other costs based on cost studies or other appropriate analytical justification.

2. Operational Costs

Ohio Edison believes that the carrying charge rate should include a component to capture the operational costs of the pole distribution network. Allocable portions of the following FERC Accounts should be included in this component:

FERC Account 580 ("Operation supervision and engineering"). This account includes the cost of labor and expenses incurred with general supervision and direction of the operation of the distribution system. Ohio Edison believes that 22% of this cost category should be included in computing the proposed operation component of the carrying charge rate. This percentage of cost represents Ohio Edison's approved adder for supervision used on all billable work.

FERC Account 583 ("Overhead line expenses (Major only)"). This account includes the cost of labor, materials used and expenses incurred in the operation of overhead distribution lines. Ohio Edison believes that 63% of this category should be included in computing the proposed operation component of the carrying charge rate. These costs include overhead adders for vacation, inclement weather, employee welfare and material.

FERC Account 588 ("Miscellaneous distribution expenses"). This account includes the cost of labor, materials used and expenses incurred in distribution system operation not provided for elsewhere. The types of expenses related to poles that may be captured in this account include, as an example, cost to maintain distribution maps and records that are provided to telecommunications companies. Ohio Edison believes that 5% of this category should be included in computing the proposed operation component of the carrying charge rate. This percentage represents the cost of

half of Ohio Edison's distribution pole Account 364. Approximately 50% of these poles have telecommunications attachments.

Here again, Ohio Edison believes, as stated above, that the Commission's rate methodology should allow utilities the flexibility to identify and include other costs based on cost studies or other appropriate analytical justification.

3. The Cost of Capital or Rate of Return

For this element of the carrying charges, the Commission currently uses the rate of return authorized for a utility's intrastate services. Given the deregulation of the utility industry, the Commission seeks comment on "what rate of return" should be used for utilities that operate in states that no longer regulate on a rate of return basis. NPRM ¶ 37. Ohio Edison believes that the rate of return should be based on the end of year capital structure of a utility. This would be a weighted average of the Ohio Edison's average debt interest, average preferred stock return plus a return for the utility's common stock. Ohio Edison believes that the latter component could be based on the average return on common stock for similarly situated utilities reported on in various financial newsletters.

III. PROPOSED ELECTRIC CONDUIT RATE METHODOLOGY

The Commission proposes to follow the same rate-making approach for electric conduit that it uses for pole attachments. NPRM ¶¶ 38-42. The particular adaptation of that approach proposed by the Commission is a formula initially developed for telephone conduit. NPRM ¶¶44-45. The Commission recognizes, however, that it has limited experience in resolving disputes relating to

electric conduit and that there are "inherent differences in the safety aspects" of cable owned or used by cable operators and telecommunications carriers and conduit owned or used by electric utilities. NPRM ¶ 43. The Commission is also cognizant that its proposed rate formula "does not appear to take such differences into consideration," and it seeks comment on the "physical limitations" of electric conduit systems that would affect the rate for such facilities. Id.

The Commission is correct to recognize that the inherent characteristics of electric conduit may require the use of different rate setting principles. The characteristics of electric conduit differ from both telephone conduit and electric poles such that an entirely different rate setting methodology should be used for electric conduit. Section III.A below sets forth some of those characteristics as well as particular considerations that Ohio Edison believes are important for the Commission to take into account in establishing a rate methodology for electric conduit. Section III.B provides Ohio Edison's comments on what it believes is an appropriate rate methodology for electric conduit. Section III.C sets forth specific comments concerning the Commission's proposed methodology, assuming the Commission were nonetheless to proceed with it.

A. Major Considerations for Establishing An Electric Conduit Rate Methodology

Ohio Edison believes that the characteristics of electric conduit differ from both telephone conduit and from electric pole attachments such that an entirely different rate setting approach should be used. These characteristics as well as other major factors that should influence any rate methodology adopted by the Commission for electric conduit include the following:

First, electric conduit is an unique resource that cannot be readily duplicated. Conduit is used by electric utilities mostly in urban areas where poles cannot be used or where cable cannot be buried directly in the ground. A conduit system consists of a group of or a bank of conduit ducts, manholes, handholes, and/or vaults.[11/] The construction of such a system is an immense undertaking, particularly in a crowded urban area. It consists of excavating vaults, digging trenches between vaults, placement of conduit duct, and pouring concrete around the duct bank. Because of its large impact, new conduit installation is often closely controlled and policed by local ordinances and permits.

Second, many existing electric conduit systems were constructed years ago and are mostly depreciated. Therefore, a huge disparity often exists between the book value of the conduit and its replacement value. In fact, the book value for some conduit systems built decades ago is negative. Moreover, today's cost to construct even a modest conduit system in an urban area is a major undertaking and expense. Encased conduits are generally larger in size and cost about $207 per foot to install. Therefore, a rate based on the historical cost of existing conduit systems would be confiscatory and could greatly disadvantage electric utility companies in providing electrical service. A utility could be forced to sell conduit access at prices far below market value and far below the cost at which it may later be required to build new conduit necessary to perform its core business function of providing electrical service.

[11/] The National Electric Safety Code defines a "duct" to be "a single enclosed raceway for conductors or cable." Section 320 at p. 176 (1997 Edition). In turn, the Code defines a "conduit" to be "a structure containing one or more ducts" and a "conduit system" to be "the combination of . . . conduits, manholes, handholes, and/or vaults joined to form an integrated whole." Id.

Third, there can be huge differences in the cost of electric conduit systems depending on their location. Conduit systems in heavily urbanized areas are vastly more costly to construct than in suburban areas. Therefore, it would be inappropriate to base conduit rates on average system costs (whether historic or replacement costs are used as the basis for rate recovery). Suburban conduits are generally small in size and cost about $30 per foot for installation. The need to develop rates based on particular locales is necessary given that access will inevitably be sought in high-cost urbanized areas.[12/]

Fourth, the empty ducts that do exist in electric conduit systems are designed as part of the system to serve two purposes. Foremost, empty ducts are necessary to allow rapid restoration of power in the event of a failure of a cable in one of the conduit ducts. Rather than pull out the failed cable (which may not even always be possible), the electric company can more quickly pull a new cable through an empty duct in order to restore electric service as rapidly as possible. Thus, although a conduit system may contain empty duct, a certain amount of those ducts must be maintained as reserves in order to provide the reliable supply of electrical energy required by our modern-day society. For example, Ohio Edison generally installs one (1) spare duct for every three ducts installed.

Further, certain capacity is usually designed into conduit systems to allow for future expansion of electric service. Because of the large costs of new conduit systems, and the potential difficulty of

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[12/] Further, as discussed in Section III.C infra, Ohio Edison's records do not permit it to calculate easily an average cost per conduit foot or meter for its system, as would be required under the Commission's proposed methodology.

obtaining the necessary permits for new construction, such capacity is a unique, valuable commodity, essential for Ohio Edison to provide electrical service to expanding communities and cannot validly be priced on a historic cost basis.

Fifth, there are distinct physical differences between electric and communication cables that directly affect any proposed rate methodology. Foremost, electric and communications cables cannot share the same conduit duct. Electric cable pulled through a duct is ordinarily on the order of several inches in diameter and weighs up to 20 pounds per foot. In contrast communications cables are on the order of less than an inch in diameter and weigh approximately less than two pounds per foot. Pulling electric cable through a duct (necessitated by the cable failure) would destroy the smaller communications cable. In this regard, the National Electric Safety Code ("NESC") precludes electrical supply cable and communications cable from sharing "the same duct unless the cables are maintained or operated by the same utility." NESC Rule 341(A)(6).[13/]

Sixth, the NESC recognizes the distinct physical differences between electric supply and communications cables and provides that electric supply and communications cable can be installed in the same manhole or vault "only with the concurrence of all parties concerned." NESC § 341(B)(2)(b)(1) (emphasis added). Further, in those instances where the parties do agree to locate both electric supply and communications cable in the same manhole or vault, the code provides specific separation requirements as follows:

[13/] Also, failure of electrical cables could result in "arcing" that could damage nearby communication cables. That is one reason for the separation requirements in the NESC code discussed under the next point in the text.

> (2) Supply and communication cables should be racked from separate walls. Crossings should be avoided.
>
> (3) Where supply and communication cables must be racked from the same wall, the supply cables should be racked below the communication cables.
>
> (4) Supply and communications facilities shall be installed to permit access to either without moving the other.
>
> (5) Clearances [between electric and communications cables and equipment] shall be not less than those specified in Table 341-1, [which requires clearances from 6 to 24 inches depending on the voltage of the electrical cable and equipment].[14/]

NESC § 341(B)(2)(b)(2)-(5).

Seventh, the above Code requirements for concurrence of the parties for locating communication and electric supply cables in common vaults or manholes and for their separation in such circumstances emanate from the highly dangerous environment that exists in electric conduit vaults and manholes. Such vaults and manholes are crowded, confined quarters containing extensive electric equipment and circuits -- much of it high voltage -- which can pose grave potential dangers to untrained communication workers. Not only are important safety considerations involved, but the presence of non-utility personnel in electric vaults and manholes -- even if properly trained -- require special procedures and precautions that translate directly into additional costs borne by the utility. Communication workers do not have high voltage protection gear required to work in vaults,

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[14/] Table 341-1 provides that "[t]hese clearances may be reduced by mutual agreement between the parties concerned when suitable barriers or guards are installed." (Emphasis added).

therefore, it is Ohio Edison's practice that only our own employees that are properly trained and outfitted have access to vaults.

Eighth, because of the significant differences between electric and communication cable and conduit, including the dangers of working in closely confined electric manholes and vaults, the general practice of electric utilities and telephone companies is not to develop and share joint conduit duct banks. For example, although Ohio Edison has negotiated joint pole agreements with the local telephone exchange companies to make joint use of each other's pole system, we do not include underground facilities in these agreements. Thus, we each have developed our own separate conduit systems.

In the few instances that we have permitted communications workers into our ducts, they were required to construct their own vaults and reroute conduit to these vaults for access.

B. Appropriate Rate Methodology for Electric Conduit

Ohio Edison believes that the traditional ratemaking approach of recovery of historical costs is inappropriate for developing the rates to be charged for access to electric conduit. There are numerous reasons, discussed above, why electric conduit does not fit within a historical cost recovery rate scheme as proposed by the Commission. Such a rate-based system would in fact be counterproductive because it could require a unique, valuable resource to be sold at prices far below any reasonable measure of its market value, societal value or replacement costs.

The Commission should therefore adopt a different rate-making approach for conduit than proposed in the NPRM. Such a system should place primary reliance on market-based rates

negotiated by the parties, as will be mandated in rulemaking under Section 224(e).[15/] There are many considerations involved in providing access to electric conduit systems, cost being just one. These include particularly the safety considerations evidenced by the NESC provisions cited above as well as OSHA Confined Space Requirements. The parties should be free to negotiate an agreement that fully accounts for all these important considerations. The Commission should, therefore, not establish a comprehensive regime of rules prescribing electric conduit rates, but at most, adopt general rules setting forth broad parameters for determining just and reasonable rates for conduit access.

To the extent that the Commission would nevertheless seek to establish a particular rate methodology other than market-based rates, that methodology should be based on forward-looking costs or replacement costs. For newly constructed conduit systems, which a utility could plan and design for access by cable television and telecommunication companies, such an approach may roughly approximate an historical cost approach. For older, highly deprecated conduit systems, of limited additional capacity, it would ensure that a unique, valuable resource will not be utilized for uses nowhere close to its true economic value.

Further, because of the large variations in the costs of conduit systems for highly urbanized areas and other less crowded areas, the Commission should allow such rates to be determined on a local or project basis, such as for downtown urban areas, city residential areas, or suburban areas, as opposed to a system wide basis.

[15/] As already observed in the introduction, the Commission should follow, to the extent possible, Section 224(e) principles in order to minimize the transition from one rate system to another.

To the extent that the Commission believes that it may be bound by statute or precedent to adopt a historical cost-recovery rate methodology under Section 224(d), Ohio Edison strongly urges the Commission to reconsider that position. The Commission is not required to promulgate regulations establishing rates to be charged for conduit under Section 224(d). See, e.g., Securities and Exchange Commission v. Chenery, 332 U.S. 194 (1947) ("Chenery II") (in the absence of a statutory mandate, the choice between rulemaking and adjudication lies solely in an agency's informed discretion). In Chenery II the Supreme Court held that absent a statutory mandate an agency may exercise its "informed discretion" to proceed by adjudication rather than by rulemaking where it "may not have had sufficient experience with a particular problem to warrant rigidifying its tentative judgment into a hard and fast rule." 332 U.S. at 203. The Commission, therefore, may and should choose in its informed discretion not to adopt rules fixing rates for access to conduit under Section 224(d), and instead may choose to proceed by adjudication.

Chenery II is particularly appropriate as guidance in this instance. Although the Commission has regulated rates for pole attachments, as already discussed, that experience is not germane for electric conduit rates. The Commission cannot foresee the myriad of factual circumstances that it will face in establishing rates for electric conduit. In such uncertainty, and in the absence of a statutory mandate, Chenery II allows an agency to proceed by adjudication. Thus, to the extent that the Commission believes that it is bound under Section 224(d) to follow an historical cost approach in setting rates, it should not establish detailed regulations implementing such a rate methodology. It

should instead proceed by adjudication to explore the myriad of issues that are involved in establishing conduit rates, and the implication of any particular rate setting methodology.[16/]

C. Comments on Commission's Proposed Historical Cost Rate Methodology

Although Ohio Edison strongly believes that a historical cost rate methodology is not appropriate for the reasons discussed above, Ohio Edison addresses in this section the Commission's specific request for comments concerning its proposed historical cost rate methodology.

1. Allocation of Usable Space

The Commission seeks comment on its proposal to use a half-duct methodology for calculating conduit rates. This methodology would establish a rebuttable presumption that a cable television or telecommunications cable occupies one half of a duct in order to simplify the rate calculation. NPRM ¶¶ 44-46.

The Commission's half-duct methodology emanates from rate cases involving telephone conduit. See NPRM ¶ 44. Two communication cables may share a single duct. However, as discussed in Section III.A above, an electric supply cable and communication cable cannot. Therefore, a half-duct methodology cannot be applied to electric conduit. When a cable television

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[16/] Admittedly, the Commission, by next year, will need to promulgate regulations implementing Section 224(e), which does require the Commission to promulgate at least certain minimal regulations. Section 224(e) clearly does not require an historical cost approach. It simply requires the Commission to promulgate regulations to ensure that a utility charges "just, reasonable, and nondiscriminatory rates for pole attachments" without reference to any particular rate approach. As discussed above, the Commission should do no more than adopt regulations that define the broad parameters of just and reasonable rates.

or telecommunication company uses an electric conduit duct for one of its communications cables, it must be responsible for the entire duct. The electric utility can no longer use the duct even assuming the separation requirements of the NESC discussed above could be met.

It is true that it may be possible to pull interduct through a duct and allow more than one communications cable in a single duct. The initial cable television or telecommunication company using the duct must, however, be responsible for the cost of installing any interduct, for the interduct does not benefit the utility. If additional communications cables are subsequently installed by other companies, the initial company could recoup a portion of the cost of installing the interduct and have its rates for use of the duct reduced at the same time. Such an approach is analogous to that prescribed by the Commission for additional pole attachments that require the installation of a new, higher utility pole. In that circumstance, the party making the additional attachment requiring the installation of a taller pole is initially responsible for the entire cost of installing the new pole, but it can recoup part of this cost from other parties who subsequently make additional attachments in effect benefiting from the increased height of the pole.[17/]

2. Net Linear Conduit Cost

The Commission's proposed rate methodology would require calculation of a utility's net cost or conduit per meter or other linear measurement. The Commission proposes that the FERC accounts to be used for computing a utility's conduit investment are Account 366 ("Underground

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[17/] See Implementation of Section 703 of the Telecommunications Act of 1996. FCC 97-173, Memorandum Opinion and Order (May 22, 1997) (hereinafter "May 22, 1997 Order, FCC 97-173").

conduit"), Account 367 ("Underground conductors and devices"), and Account 369 ("Services"). The Commission seeks comment on whether these are the appropriate FERC accounts and what adjustment factor should be applied to eliminate non-conduit investment that may be included in Accounts 367 and 369. NPRM ¶¶ 41-42.

The Commission's proposed computation is not practicable or meaningful in at least three respects. First, Ohio Edison is not capable of readily computing its conduit investment on per linear meter or footage basis. FERC accounts associated with underground only tract dollar values and not linear measurement.

Second, Ohio Edison believes that such a computation on a system-wide basis is meaningless because of the large variations of conduit capital costs based on how heavily urbanized or populated an area is where the conduit system is located, where urban conduit installations may cost seven (7) times greater than suburban systems.

Third, reliance on the FERC accounts identified by the Commission for the capital investment of conduit systems would not approximate the true-present day costs of Ohio Edison's conduit system because of the age of most of its conduit. The data in these accounts is far too old and inaccurate to be used as the basis for determining conduit rates. Assuming that the Commission rejects a market-based system, the only realistic alternatives from Ohio Edison's perspective is to use a forward-looking or replacement cost methodology. Such costs could be based on engineering cost studies for designated areas that could serve as the basis for conduit rates in the area.

Ohio Edison does note that other FERC accounts in addition to those listed by the Commission do include conduit capital investment costs. These include Account 360 ("Land and land rights"), Account 371 ("Installations on customers' premises," such as "cable vaults"), and Account 368 ("Line transformers," which includes capital investment for certain grounding equipment that is part of overall grounding system for Ohio Edison's conduit system). Communications companies rely on the use of the electric companies' Multi Grounding Network (MGN) for their system's protection.

As the Commission noted, not all the costs included in Accounts 367 and 369 are conduit related costs, nor are all the costs in Accounts 360, 368 and 371.

3. Carrying Charges

The Commission's proposed methodology for conduits includes components for administrative and maintenance costs analogous to the formula for electric pole attachments, as well as a rate of return component.

With respect to calculating the carrying charge for conduit maintenance costs, the Commission proposes to include only FERC Account 594 ("Maintenance of underground lines (Major only)"). In addition to Account 594, allocable portions of the following FERC accounts would be necessarily included in calculating the maintenance component of the carrying charge:

- Account 594.1 ("Maintenance of lines (Nonmajor only)"): This account includes non-major maintenance activities of underground conduit and related equipment such as repairing ladders, sewers, drains, walls, etc.

- Account 590 ("Maintenance supervision and engineering (Major only)"): This account includes the cost of labor and expenses incurred in the general supervision and direction of maintenance of the distribution system. These expenses are directly

attributable to maintaining the conduit system and therefore should be included in calculating the maintenance carrying charge for conduit.

- Account 595 ("Maintenance of line transformers"): This account includes expenses for the maintenance of the grounding equipment included in FERC Account 368 that Ohio Edison, as stated above, believes should be included in calculating conduit-related investment costs.

Ohio Edison believes that portions of the above expense categories are attributable to maintaining its underground conduit systems. The allocable portions are: 100% for Account 590, 100% for Account 594.1, and 10% for Account 595.

Ohio Edison also believes that the carrying charge rate for conduits should include a component to capture the operational costs of the conduit distribution network similar to that proposed by Ohio Edison for pole attachments in Section II.C.2 of these comments. The applicable FERC Accounts would be Account 580 ("Operation supervision and engineering"), Account 584 ("Underground line expenses (Major only)") and Account 588 ("Miscellaneous distribution expenses"). The portions that Ohio Edison believes are allocable from these accounts for the proposed operations component are 100% for Account 580, 100% for Account 584, and 10% for Account 588.

Finally, Ohio Edison believes that the Commission's conduit rate methodology should expressly allow utilities to include both conduit investment costs and expenses in the rate calculation based on appropriate cost studies or other appropriate analytical justification. Such an approach would allow individual utilities to include significant costs that may be unique to them.

IV. CONCLUSION

For the foregoing reasons, the Commission should adopt market-based rates for electric conduit and pole attachments or, in the event it chooses not to adopt market-based rates, the Commission should adopt the rate methodologies set forth in these comments.

Respectfully submitted,

OHIO EDISON COMPANY

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